

House File 148 - Introduced

HOUSE FILE _____
BY RANTS

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the liability of an alcoholic beverage
2 licensee or permittee.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1540YH 83
5 rh/rj/5

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1 1 Section 1. Section 123.92, Code 2009, is amended to read
1 2 as follows:
1 3 123.92 CIVIL LIABILITY FOR DISPENSING OR SALE AND SERVICE
1 4 OF BEER, WINE, OR INTOXICATING LIQUOR (DRAMSHOP ACT) ==
1 5 LIABILITY INSURANCE == UNDERAGE PERSONS.
1 6 1. Any person who is injured in person or property or
1 7 means of support by an intoxicated person or resulting from
1 8 the intoxication of a person, has a right of action for all
1 9 damages actually sustained, severally or jointly, against any
1 10 licensee or permittee, whether or not the license or permit
1 11 was issued by the division or by the licensing authority of
1 12 any other state, who sold and served any beer, wine, or
1 13 intoxicating liquor to the intoxicated person when the
1 14 licensee or permittee knew or should have known the person was
1 15 intoxicated, or who sold to and served the person to a point
1 16 where the licensee or permittee knew or should have known the
1 17 person would become intoxicated.
1 18 2. If the injury was caused by an intoxicated person, a
1 19 permittee or licensee may establish as an affirmative defense
1 20 that the intoxication did not contribute to the injurious
1 21 action of the person. ~~The remedy provided by this section~~
~~1 22 shall apply both prospectively, to actions filed on or after~~
~~1 23 July 1, 1992, and retrospectively, to actions pending in trial~~
~~1 24 or appellate courts prior to July 1, 1992.~~
1 25 3. a. A licensee or permittee of a premises against whom
1 26 an action has been filed pursuant to subsection 1 shall be
1 27 liable for damages even if the licensee or permittee ceases to
1 28 be a licensee or permittee of the premises after the
1 29 commencement of the action.
1 30 b. A licensee or permittee of a premises against whom an
1 31 action has been filed pursuant to subsection 1 shall not be
1 32 liable for damages if the licensee or permittee became the
1 33 licensee or permittee of the premises after the filing of the
1 34 action.
1 35 4. Every liquor control licensee and class "B" beer
2 1 permittee, except a class "E" liquor control licensee, shall
2 2 furnish proof of financial responsibility by the existence of
2 3 a liability insurance policy in an amount determined by the
2 4 division.
2 5 5. Notwithstanding section 123.49, subsection 1, any
2 6 person who is injured in person or property or means of
2 7 support by an intoxicated person who is under legal age or
2 8 resulting from the intoxication of a person who is under legal
2 9 age, has a right of action for all damages actually sustained,
2 10 severally or jointly, against a person who is not a licensee
2 11 or permittee and who dispensed or gave any beer, wine, or
2 12 intoxicating liquor to the intoxicated underage person when
2 13 the nonlicensee or nonpermittee who dispensed or gave the
2 14 beer, wine, or intoxicating liquor to the underage person knew
2 15 or should have known the underage person was intoxicated, or
2 16 who dispensed or gave beer, wine, or intoxicating liquor to
2 17 the underage person to a point where the nonlicensee or
2 18 nonpermittee knew or should have known that the underage
2 19 person would become intoxicated. If the injury was caused by
2 20 an intoxicated person who is under legal age, a person who is

2 21 not a licensee or permittee and who dispensed or gave beer,
2 22 wine, or intoxicating liquor to the underage person may
2 23 establish as an affirmative defense that the intoxication did
2 24 not contribute to the injurious action of the underage person.
2 25 For purposes of this paragraph, "dispensed" or "gave" means
2 26 the act of physically presenting a receptacle containing beer,
2 27 wine, or intoxicating liquor to the underage person whose
2 28 actions or intoxication results in the sustaining of damages
2 29 by another person. However, a person who dispenses or gives
2 30 beer, wine, or intoxicating liquor to an underage person shall
2 31 only be liable for any damages if the person knew or should
2 32 have known that the underage person was under legal age.

2 33 EXPLANATION

2 34 This bill provides that an alcoholic beverage licensee or
2 35 permittee of a premises against whom a dramshop action has
3 1 been filed shall be liable for damages even if the licensee or
3 2 permittee ceases to be a licensee or permittee of the premises
3 3 after the commencement of the action. The bill also provides
3 4 that a licensee or permittee of a premises against whom a
3 5 dramshop action has been filed shall not be liable for damages
3 6 if the licensee or permittee became the licensee or permittee
3 7 of the premises after the filing of the action.

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